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THE MARINA AT PIER 39 · SAN FRANCISCO ·
BAY MARINA MANAGEMENT INCORPORATED

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June 15,2004

Office of Protected Resources
Attn: Ken Hollingshead
NOAA FisheriesINational Marine Fisheries Service
1315 East-West Highway, 13th Floor
Silver Spring, MD 20910

Dear Mr. Hollingshead:

Please find enclosed the Incidental Harassment Authorization application for dredging on the west side of Pier 39 Marina on San Francisco waterfront, CA. We intend to dredge the channels between I, J, and K dock where tenants and overnight guests will berth their boats (see photos).

In accordance with the Marine Mammal Protection Act, I am submitting an application of an IHA to authorize take of a small number of California sea lions and possibly one or two harbor seals. Although one Steller sea lion has been sighted hauling out at this location, the proposed dredging activity will not take place when the Steller sea lion is present.

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Sheila Chandor
Marina Manager

DEPT. OF COMMERCE -NOAA
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(1) A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

Pier 39 is a renovated forty five acre cargo pier converted to a festival retail and restaurant marketplace in 1978. The Marina consists of an East and West side with a total of three hundred fifty (350) slips. The West side of the Marina has guest slips used to accommodate visiting boats for overnight use. There is a big demand for guest slips for two reasons: Pier 39 is San Francisco's number one tourist destination, and the Marina offers immediate access to what is regarded as the region's prime sailing venue.

The West side of Pier 39 Marina consists of three docks: I, J, and K. Over the last eighteen years there has been a sediment buildup of one foot per year. It is now imperative that we perform maintenance dredging as there is only three feet of depth at low tide, seriously hampering boaters' use of the West side.

It is necessary to dredge the channels and slips between I and J docks and half the channel between J and K docks. There will be no dredging done under K dock where the California sea lions haul out. (see photos)

Dredging will utilize a small "clam shell-style crane barge" to dig under each slip and in the channels. The dredge material will be taken to Piers 96/98 which is owned and operated by the Port of San Francisco; from there it will be disposed of to an upland site. The amount of dredge material being removed will be approximately 13,000 cubic yards. We anticipate the project will only take one to two weeks. Dredging permits have been obtained and are on file.

(2) The date(s) and duration of such activity and the specific geographical region where it will occur;

Dredging will likely occur in late fall 2004 or early spring 2005 pending contractor bids and scheduling. It is anticipated the project will take approximately two to three weeks. During this time, a crane barge will be anchored at J dock to facilitate dredging the channel between J and K. It will then move over to the channel between J and I to complete dredging on the shore sides of J dock and I dock. A relatively small clam shell style dredge will be used to minimize intrusion and disturbance. No dredging will be done under K dock area where the California sea lions haul out.

(3) The species and numbers of marine mammals likely to be found within the activity area:

Since 1989 California sea lions *(Zalophus califomianus)* have used K dock as a haul out site. K dock is located eighty feet from J and I dock where the dredging will take place. Since 1991 The Marine Mammal Center has taken periodic counts of the sea lion population at K dock and continues to do so. In August and September the population of California sea lions varies from 0 to 1250, averaging 350 -850.

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Occasionally, an individual harbor seal *(Phoca vitulina)* is observed amongst the sea lions. There is no apparent seasonal pattern to when harbor seals haul out.). One adult male Steller sea lion *(Eumetopias jubatus)* has been observed hauling out at K dock intermittently in July and August since 1993. Occasionally, this adult male Steller sea lion has been seen in September.

(4) A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;

Two pinniped species (the California sea lions and Pacific harbor seal) protected under the Marine Mammal Protection Act, would be potentially affected by this project and are discussed in detail below. A lone Steller sea lion *(Eumetopias jubatus)* is also known to haul out at Pier 39, however this project is not likely to adversely affect the Steller sea lion, since

the project will avoid the time period when the Steller sea lion is known to haul out at this location.

California Sea **Lions**
According to the *2003 Draft U.S. Pacific Marine Mammal Stock Assessments* (Carretta *et al. 2003)*, the geographic range of the U.S. stock of California sea lion extends from the U.S./Mexico border north into Canada, but breeding only occurs in the Gulf of California, western Baja California and southern California. Population estimates for this stock range from a minimum of 138,881 to 237,000. The minimum population size is based on counts of all age and sex classes that were ashore at all the major rookies and haul outs during the 2001 breeding season, whereas the population estimate of 237,000 is based on the numbers of pups counted during the 2001 breeding season, the number of births estimated from the pup count, and the proportion of the pups in the population. Current trends indicate that the stock as a whole has been growing at a rate of 5.4 to 6.1% per year (Carretta *et al.* 2003). California sea lions are not listed as endangered or "threatened" under the Endangered Species Act, nor are they considered "depleted" or a "strategic" stock under the MMP A.

The population that hauls out on K dock range in number from a maximum of 1400 from late December through May to 200 -300 mid-summer season (June to September). These animals are constantly monitored by the Marine Mammal Center (which has a kiosk located close to the overlook deckway, and Pier 39 Marina patrol staff.

Pacific harbor seals

Pacific harbor seals *(Phoca vitulina richardsi)* are widely distributed in the North Pacific. In California, approximately 400 -500 harbor seal haul-out sites are widely distributed along the mainland and on offshore islands, including intertidal sandbars, rocky shores and beaches (Hanan 1996). A complete count of all harbor seals in California is impossible because some are always away from the haul-out sites. A

complete pup count (as is done for other pinnipeds in California) is also not possible because harbor seals are precocious, with pups entering the water almost immediately after birth. Population size is estimated by counting the number of seals ashore during the peak haul-out period (May to July) and by multiplying this count by the inverse of the estimated fraction of seals on land. Based on the most recent harbor seal counts (21,433: Lowry and Carretta, in prep.) the estimated population of harbor seals in California is 27,863 (Carretta *et at.* 2003). **In** California the population growth rate of harbor seals appears to be slowing, but remains positive. Declines in counts at particular sites are thought to be caused by competition with other harbor seals and other pinnipeds and displacement to other haul-out sites. Harbor seals are not listed as (endangered) or "threatened" under the Endangered Species Act, and "not considered strategic" under the MMP A.

There is one harbor seal that has been sighted hauling out on K dock, but this has occurred in 2000 and 2001. It is highly unlikely that a harbor seal will be hauled out at this location.

(5) The type of incidental taking authorization that is being requested (i.e., takes by harassment only: takes by harassment, injury and/or death) and the method of incidental taking;

Incidental harassment only is being requested. Harassment will be caused by loud noise, presence of a crane barge and unfamiliar activity in proximity to haul out site.

(6) By age, sex, and reproductive condition (if possible), the number of marine mammals (by species) that may be taken by each type of taking identified in paragraph (a)(5) of this section, and the number of times such takings by each type of taking are likely to occur;

Incidental harassment during dredging and mobilization of the dredge material would consist of flushing up to 1250 adult and juvenile California sea lions hauled out at Pier 39. It is doubtful that any harbor seals would be hauled out at Pier 39, but if they were, at most two would flush into the water as a result of dredging operations. There are no pups or lactating females of either species located at Pier 39.

(7) The anticipated impact of the activity upon the species or stock;

The only impact would be the disturbance by the presence of workers and dredging equipment. Disturbance from these activities is expected to have a short-term negligible impact on a small number of marine mammals. The seals and sea

lions may be temporarily displaced, but no long-term impacts are expected. In our experience over the last 13 years, the sea lions have adapted to unfamiliar intrusion and eventually become acclimated and return to their normal behavior and remain on the floats. Examples of this are: the Blue Angels flying over during Fleet Week, fireworks on July 4th, and regular dock washing by the marina crew -none of which even provoke them leaving the floats.

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(8) The anticipated impact of the activity upon the species or stock of marine mammals for subsistence uses;

N/A

(9) The anticipated impact of the activity upon the habitat of the marine mammal populations, and the likelihood of restoration of the affected habitat;

The project will have no affect on marin impacts would be an increase in noise from in the water. Post dredging operations, the
tide.

e mammal habitat. The only short-term machinery and an increase in the turbidity depth would increase from 4' to 9' at low

(10) The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

There will be no loss of marine mammal habitat.

(11) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

The dredging method {clam shell} provides the least intrusive means for digging siltation from under the slips as the equipment is comparatively small and can be handled to target specific areas. The smaller equipment also minimizes turbidity in the water around K dock. The dredge material will be loaded onto a barge and taken to Port of San Francisco land site close to Pier 39. the close proximity of the site will facilitate a shorter project duration.

Where the proposed activity would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses, the applicant must submit either a plan of cooperation or information that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses.

N/A

(13) The suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be

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present while conducting activities and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity. Monitoring plans should include a description of the survey techniques that would be used to determine the movement and activity of marine mammals near the activity site(s) including migration and other habitat uses, such as feeding. Guidelines for developing a site-specific monitoring plan may be obtained by writing to the Director, Office of Protected Resources;

Since 1991 The Marine Mammal Center staff and volunteers have taken periodic counts of the sea lion population at K dock and the data is on file. During this dredging project we will expand the monitoring to document flushing and make daily counts. The monitoring team for this project will be trained to take data for this project and include a combination of PIER 39 Marina Staff, and staff or volunteers from The Marine Mammal Center. The count data taken before, during and after the dredging project will be compared with the historic data. Our Monitoring Plan is as
follows:

A. A morning and afternoon count of the sea lions will be taken the day before the project begins. The morning count time will be the same throughout the project and that time will be based on what time the dredging workers are scheduled to begin. (See below).
B. The California sea lions will be counted every morning that work is scheduled by the Steller sea lion observer (see below).
C. Each day before work begins, at approximately the same time, a member of the monitoring team will scan the California sea lions on K dock looking for the Steller sea lion. If the Steller is identified, his location will be documented on the count sheet, and the dredging will be postponed until he leaves K dock and the west marina. This same person will count the sea lion population.
D. A monitoring team member will be present for much of the first day when the equipment is brought in and operation begins. They will document the flushing of the sea lions as the equipment arrives and once the dredging operation begins. This person will take an afternoon count at the same time as will be done the day before the operation (A above).
E. The sea lions flushing behavior will be monitored and an additional population count will be done every two days until the project is completed. The timing for these observations will vary so that we can get a glimpse of the effect of the operation on the sea lions at different times of the day.
F. The day after the dredging project is over and the equipment removed a team member will count the sea lions in the morning and afternoon.
G. Morning counts will continue each day for a week after the project.
H. The data collected will be compared with historic data. The count sheets and flushing behavior documentation will be compiled. All will be sent to NOAA Fisheries for their records, in addition copies will be kept on file at the PIER 39 Marina Office and at The Marine Mammal Center based in Sausalito, California.

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(14) Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

All monitoring data will be collected and the associated reports will be submitted to NMFS. The documentation will be made available upon request to other marinas, scientists and other interested parties.

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